



CALIFORNIA CENTRAL VALLEY
FLOOD CONTROL
ASSOCIATION

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By email (tammy.conforti@usace.army.mil)

April 17, 2012

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
U.S. Army Corps of Engineers
108 Army Pentagon, Room 3E446
Washington, DC 2031 0-0 1 08

SUBJECT: Docket # COE-20120-0007

Dear Assistant Secretary Darcy:

Thank you for continuing to work with local communities on our concerns with the U.S. Army Corps of Engineers' (Corps) vegetation policy. We appreciate your continued commitment to work collaboratively with flood management interests in the State of California and for providing an additional public comment period for the revised *Policy Guidance Letter--Variance From Vegetation Standards for Levees and Floodwalls* (PGL). We also appreciate the Corps' efforts to identify a process to address public safety issues in a risk-prioritized way through the *System-wide Improvement Framework* process (SWIF).

While we are appreciative of the efforts to date, unfortunately we have failed to resolve the fundamental issue of the effect that existing vegetation has on legacy levees. We agree with the principal that we cannot allow vegetation to compromise public safety. However, we must also demonstrate that (1) the potentially adverse effects that vegetation may have on legacy levee performance are not outweighed by potentially beneficial effects, and (2) where vegetation is determined to be problematic, remedial actions are well tailored and cost effective.

Given the significant costs and the destruction to the ecosystem that would occur with implementation of the Engineering Technical Letter (ETL) and PGL as currently written, we believe the Corps' vegetation management policies should be substantially changed to be based on an engineering analysis that prioritizes investment by the risk that vegetation presents to levee performance. Such engineering analyses will be possible using research already underway. Consistent with the Central Valley Flood System Improvement Framework Agreement

knowledge on the effects of vegetation on levee embankments. It is imperative that this scientific evidence be considered as part of the scientific and engineering basis of vegetation policy formation. This evidence is already helping to shed light on whether a different policy may be as safe or safer than the current policy, and to assist in the development of an implementable vegetation management policy for California's Central Valley levee system.

We also believe that, to the extent that vegetation is to be removed, the Corps has a responsibility to participate as a cost sharing partner to bring the levee system into compliance with the vegetation policy, because the Corps turned the system over to the State to operate and maintain with woody vegetation already as an integral component of the levees and channels. The Corps also has a long standing and well-documented practice in the Central Valley of encouraging and/or preserving vegetation on the waterside slope to provide habitat for endangered species and to provide erosion protection.

The PGL makes it clear that variances will be granted only if applicants can demonstrate that the variance will not result in an expected level of reliability below that provided by a structure designed to minimum Corps engineering standards. This demonstration requires that the analytical levee prism be un-invaded by roots greater than 0.5 inches, potential erosion and scour, or potential tree overthrow pits. This means that a variance is only likely to be available on overbuilt levees (as noted in the PGL: "variance approval is unlikely where the analytical prism is equal to or larger than the existing levee cross section"). Since the vast majority of the levees in the Central Valley are not currently overbuilt, approved variances will only be obtained where existing levees are redesigned and reconstructed to create over-widened cross sections with unobstructed levee prisms. This represents a near-physically impossible solution in urban areas and a financially impossible solution in rural areas. Thus, while a variance is technically available, it can seldom be used in the Central Valley.

Further, as written the SWIF requires the implementing agency to commit to a schedule to correct all deficiencies, whether those deficiencies are technical or represent true risk. We do not believe this to be a reasonable requirement. For example, it may be shown through research efforts subsequent to entering into a SWIF agreement that certain vegetation is not actually a threat to public safety on a specific reach of levee, yet the SWIF agreement would require removal of vegetation to be compliance with the ETL and PGL. This situation would create unwarranted community anxiety, habitat disruption, and expenditure of limited funds on a low-risk activity. We also note that Section IX of the proposed Vegetation Variance Agreement allows the Corps to revoke the agreement if it determines that public safety is threatened, with no definition or descriptive example of threatened public safety. Therefore the variance could be revoked at any time by the Corps.

definition or descriptive example of what constitutes a threat to public safety. Therefore the variance could be revoked at any time by the Corps and is subject to inconsistent application.

We therefore provide the following requests and comments for your consideration:

1. Against the backdrop of emerging science suggesting at least nominal beneficial effects from properly managed vegetation, we believe that the State of California's proposed lifecycle management approach (as documented in the California Urban Levee Design Criteria) is a prudent interim and potentially long-term approach that enables science to develop into engineering criteria and facilitates the removal of vegetation over time, or immediately if the vegetation poses a clear risk to public safety.
2. Continue to work with the State and local agencies to advance the science and engineering practice to quantify the conditions in which vegetation poses a threat to levee integrity. Once the science and engineering are fully mature, revise the vegetation variance policy to establish a practical process that considers any incremental risk posed by levee vegetation with respect to all risks that affect levee integrity, and whether or not the financial and environmental costs of vegetation removal are warranted.
3. Revise the SWIF consistent with the lifecycle management approach to allow agencies to make investments in addressing the greatest risk factors without committing to bringing the levee into compliance with all Corps criteria. We also support the application of the SWIF policy to the authorization and approval of flood risk reduction projects as well, not just PL84/99 eligibility.

Thank you for the opportunity to comment on the revised PGL and we look forward to continuing our partnership to reduce flood risk in the Central Valley.

Sincerely,



Melinda Terry
Executive Director

Cc: CCVFCA Board of Directors
Congresswoman Doris Matsui
Congressman John Garamendi
California Resources Secretary John Laird
California Department of Water Resources Director Mark Cowin
Ms. Tammy Conforti, USACE